

Kristina D. Lawson, J.D.  
Chair  
Panel B

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition to  
Revoke Probation Against:**

**Christian Paul Struven, M.D.**

**Case No. 800-2018-042804**

**Physician's and Surgeon's  
Certificate No. G 65315**

**Respondent**

**DECISION**

**The attached Stipulated Surrender of License and Order is hereby  
adopted as the Decision and Order of the Medical Board of California,  
Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on August 3, 2018.**

**IT IS SO ORDERED July 27, 2018.**

**MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 LYNNE K. DOMBROWSKI  
Deputy Attorney General  
4 State Bar No. 128080  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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E-mail: Lynne.Dombrowski@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke  
Probation Against:

13 **CHRISTIAN PAUL STRUVEN, III, M.D.**

14 16226 S. Arbor Drive  
Plainfield, IL 60586

15 Physician's and Surgeon's Certificate  
16 No. G 65315

17 Respondent.

Case No. 800-2018-042804

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Lynne K.  
24 Dombrowski, Deputy Attorney General.

25 2. Christian Paul Struven, III, M.D. (Respondent) is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On September 12, 2012, the Board issued Physician's and Surgeon's Certificate No. G 65315 to Christian Paul Struven, III, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 800-2018-042804 and will expire on March 31, 2020, unless renewed.

4. Respondent's Physician's and Surgeon's Certificate No. G 65315 is currently subject to a probation, pursuant to the Medical Board's Decision and Order in Case No. 800-2014-008437, which became effective on January 29, 2016. In the Decision and Order, Respondent's Physician's and Surgeon's Certificate was revoked, the revocation was stayed, and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions.

## JURISDICTION

5. Petition to Revoke Probation No. 800-2018-042804 was filed by the Board and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 30, 2018. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of the Petition to Revoke Probation No. 800-2018-042804 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Petition to Revoke Probation No. 800-2018-042804. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 800-2018-042804, agrees that cause exists for discipline, and hereby surrenders his Physician's and Surgeon's Certificate No. G 65315 for the Board's formal acceptance.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.
2. Respondent shall cause to be delivered to the Board his pocket license and his wall certificate, if one was issued, on or before the effective date of the Decision and Order.
3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Petition to Revoke Probation No. 800-2018-042804 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the petition.
4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Petition to Revoke Probation, No. 800-2018-042804 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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DATED: 6/29/18

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1 ENDORSEMENT

2 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
3 for consideration by the Medical Board of California of the Department of Consumer Affairs.

4  
5 DATED: 07/17/2018

Respectfully submitted,

6 XAVIER BECERRA  
7 Attorney General of California  
8 JANE ZACK SIMON  
9 Supervising Deputy Attorney General

10   
11 LYNNE K. DOMBROWSKI  
12 Deputy Attorney General  
13 *Attorneys for Complainant*

14 SF2018200254

**Exhibit A**

**Petition to Revoke Probation No. 800-2018-042804**



1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 LYNNE K. DOMBROWSKI  
Deputy Attorney General  
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E-mail: Lynne.Dombrowski@doj.ca.gov  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO May 30, 2018  
BY Sara Pasola ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke  
12 Probation Against:

Case No. 800-2018-042804

13 **CHRISTIAN PAUL STRUVEN, III, M.D.**

**PETITION TO REVOKE PROBATION**

14 16226 S. Arbor Drive  
15 Plainfield, IL 60586

16 Physician's and Surgeon's Certificate  
17 No. G 65315

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely  
21 in her official capacity as the Executive Director of the Medical Board of California, Department  
22 of Consumer Affairs.

23 2. On or about September 12, 2012, the Medical Board of California issued Physician's  
24 and Surgeon's Certificate Number G 65315 to Christian Paul Struven, III, M.D. (Respondent).  
25 The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought  
26 herein and will expire on March 31, 2020, unless renewed.

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3. In a disciplinary action entitled "In the Matter of the Accusation Against Christian Paul Struven, III, M.D.," Case No. 800-2014-008437, the Medical Board of California, issued a Decision and Order, effective January 29, 2016, in which Respondent's Physician's and Surgeon's Certificate was revoked (the "Decision"). However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that Decision is attached as Exhibit A and is incorporated herein by reference.

## JURISDICTION

4. This Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2038 of the Code states:

“Whenever the words “diagnose” or “diagnosis” are used in this chapter, they include any undertaking by any method, device, or procedure whatsoever, and whether gratuitous or not, to ascertain or establish whether a person is suffering from any physical or mental disorder. Such terms shall also include the taking of a person’s blood pressure and the use of mechanical devices or machines for the purpose of making a diagnosis and representing to such person any conclusion regarding his or her physical or mental condition. Machines or mechanical devices for measuring or ascertaining height or weight are excluded from this section.”

6. Section 2051 of the Code states:

“The physician’s and surgeon’s certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.”

7. Section 2052 of the Code states, in pertinent part:

“(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,

1 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition  
2 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended  
3 certificate as provided in this chapter or without being authorized to perform the act pursuant to a  
4 certificate obtained in accordance with some other provision of law is guilty of a public offense . .  
5 . .”

6 8. Section 2227 of the Code states:

7 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical  
8 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default  
9 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
10 action with the board, may, in accordance with the provisions of this chapter:

11 “(1) Have his or her license revoked upon order of the board.

12 “(2) Have his or her right to practice suspended for a period not to exceed one year upon  
13 order of the board.

14 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
15 order of the board.

16 “(4) Be publicly reprimanded by the board. The public reprimand may include a  
17 requirement that the licensee complete relevant educational courses approved by the board.

18 “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
19 the board or an administrative law judge may deem proper.

20 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
21 review or advisory conferences, professional competency examinations, continuing education  
22 activities, and cost reimbursement associated therewith that are agreed to with the board and  
23 successfully completed by the licensee, or other matters made confidential or privileged by  
24 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
25 Section 803.1.”

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1 state of the United States or Federal jurisdiction while on probation with the medical  
2 licensing authority of that state of jurisdiction shall not be considered non-practice. A  
3 Board-ordered suspension of practice shall not be considered as a period of non-practice.  
4 **In the event respondent's period of non-practice while on probation exceeds 18**  
5 **calendar months, respondent shall successfully complete a clinical training program**  
6 **that meets the criteria of Condition 18 of the current version of the Board's "Manual**  
7 **of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the**  
8 **practice of medicine. Respondent's period of non-practice while on probation shall**  
9 **not exceed two years.** Periods of non-practice will not apply to the reduction of the  
10 probationary term. Periods of non-practice will relieve respondent of the responsibility to  
11 comply with the probationary terms and conditions with the exception of this condition and  
12 the following terms and conditions of probations: Obey All Laws; and General Probation  
13 Requirements." (Emphasis added.)

14 11. At all times after January 29, 2016, the effective date of Respondent's probation,  
15 Probation Condition No. 14 stated:

16 "Failure to fully comply with any term or condition of probation is a violation of probation.  
17 If respondent violates probation in any respect, the Board, after giving respondent notice and the  
18 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
19 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
20 against respondent during probation, the Board shall have continuing jurisdiction until the matter  
21 is final, and the period of probation shall be extended until the matter is final."

22 12. Respondent's Physician's and Surgeon's Certificate No. G 65315 is subject to  
23 revocation because Respondent has failed to comply with Probation Condition No. 12 in that his  
24 period of non-practice exceeded two years as of January 26, 2018. The facts and circumstances  
25 regarding this violation are as follows:

- 26 a. At all times during probation, Respondent has not practiced medicine in California.  
27 b. At all times during probation, Respondent has resided in Illinois where he does not  
28 practice medicine, as defined in Business and Professions Code sections 2015 and 2052, for at

1 least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other  
2 activity as approved by the Board. Respondent provides utilization review services to insurance  
3 companies on a full-time basis.

4 c. At all times during probation, Respondent has not been subject to a probation with  
5 any other state's medical licensing authority.

6 d. On or about June 6, 2017, the Board's Probation Monitor sent Respondent a letter that  
7 notified him that he would exceed 18 months of non-practice on July 26, 2017 and that, should he  
8 resume the practice of medicine after that date, he would be required to successfully complete a  
9 Board-approved Clinical Training Program.

10 e. On or about July 31, 2017, the Board received Respondent's signed Second Quarter  
11 Quarterly Declaration for the period of April through June 2017. In Attachment B.4, Respondent  
12 stated:

13 "I understand from the Second Quarter Contact Letter dated June 6, 2017, that as of  
14 August 18, 2017, I will not have practiced medicine in California for over 18 months. In  
15 fact, I have not practiced medicine in California since the 1990s, and only obtained my  
16 present California license in anticipation of utilization review licensure requirements. I  
17 understand that this is probably nothing you can control, but I should inform you that I have  
18 not lived or worked in California in approximately 20 years and have no intention of either  
19 living or working in California. I tell you this in order to keep you informed of my  
20 situation."

21 f. On or about September 11, 2017, the Board's Probation Monitor sent a letter to  
22 Respondent that notified him that he had exceeded 18 months of non-practice on July 26, 2017  
23 and that he would exceed two years of non-practice on January 26, 2018.

24 g. On or about October 23, 2017, the Board received Respondent's signed Third Quarter  
25 Quarterly Declaration for the period of July through September, 2017. Respondent's non-practice  
26 status remained unchanged.

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1 h. On or about December 20, 2017, the Board's Probation Monitor sent a letter to  
2 Respondent that again notified him that he had exceeded 18 months of non-practice on July 26,  
3 2017 and that he would exceed two years of non-practice on January 26, 2018.

4 i. On or about January 19, 2018, the Board received Respondent's signed Fourth  
5 Quarter Quarterly Declaration for the period of October through December, 2017. Respondent's  
6 non-practice status remained unchanged.

7 j. On or about April 16, 2018, the Board received Respondent's signed First Quarter  
8 Quarterly Declaration for the period of January through March, 2018. Respondent's non-practice  
9 status remained unchanged.

10 13. As of January 26, 2018, Respondent's period of non-practice while on probation  
11 exceeded two years and he continues to be in non-practice. Respondent, therefore, is in violation  
12 of the terms of probation and cause exists for the carrying out of the disciplinary order that was  
13 stayed, which is an order revoking Respondent's Physician's and Surgeon's Certificate.

14  
15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Medical Board of California issue a decision:

18 1. Revoking the probation that was granted by the Medical Board of California in Case  
19 No. 800-2014-008437 and imposing the disciplinary order that was stayed, thereby revoking  
20 Physician's and Surgeon's Certificate No. G 65315 issued to Christian Paul Struven, III, M.D.;

21 2. Revoking or suspending Physician's and Surgeon's Certificate No. G 65315, issued to  
22 Christian Paul Struven, III, M.D.;

23 3. Revoking, suspending or denying approval of Christian Paul Struven, III, M.D.'s  
24 authority to supervise physician assistants and advanced practice nurses;

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1           4.     Ordering Christian Paul Struven, III, M.D., if placed on probation, to pay the Medical  
2 Board of California the costs of probation monitoring;

3           5.     Taking such other and further action as deemed necessary and proper.  
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5  
6 DATED: May 30, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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**Exhibit A**  
**Decision and Order**  
**Medical Board of California Case No. 800-2014-008437**

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation )  
Against: )  
)  
)

Christian Paul Struven III, M.D. )

Case No. 8002014008437

Physician's and Surgeon's )  
Certificate No. G 65315 )  
)

Respondent )  
\_\_\_\_\_ )

**DECISION AND ORDER**

The attached Proposed Decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. Page 3, Line 1 – taken by wife will be corrected to read “taken by his wife.”
2. Page 3, Paragraph No. 2 – The disciplinary action of the Texas Board will be corrected to read “The disciplinary action of the Illinois Board.”

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 29, 2016.

IT IS SO ORDERED December 31, 2015.

**MEDICAL BOARD OF CALIFORNIA**

**MEDICAL BOARD OF CALIFORNIA**  
I do hereby certify that this document is a true and correct copy of the original on file in this office.

Signature

Title

Shawn Wae  
For Custodian of Records

Date

3/7/2016

By:

Howard Krauss, M.D.  
Howard Krauss, M.D., Chair  
Panel B

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHRISTIAN PAUL STRUVEN III, M.D.,

Physician's and Surgeon's Certificate  
No. G65315

Respondent.

Case No. 800-2014-008437

OAH No. 2015080969

PROPOSED DECISION

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on November 5, 2015, in Oakland, California.

Supervising Deputy Attorney General Jane Zack Simon represented complainant Kimberly Kirchmeyer, the Executive Director of the Medical Board of California, Department of Consumer Affairs.

Respondent Christian Paul Struven III, M.D., was present and represented himself.

The record closed and the matter was submitted on November 5, 2015.

FACTUAL FINDINGS

1. On September 12, 2012, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G65315 (certificate) to respondent Christian Paul Struven III, M.D. The certificate was in full force and effect during the events set forth below, and will expire on March 31, 2016, unless renewed.

2. On July 30, 2015, complainant Kimberly Kirchmeyer, acting in her official capacity as Executive Director of the Board, issued an accusation against respondent. The accusation alleges that respondent's California certificate is subject to discipline because of actions taken by the Illinois Department of Financial and Professional Regulation against respondent's license to practice medicine in Illinois. Respondent requested a hearing, and this hearing followed.

*Action by the Illinois Department of Financial and Professional Regulation*

3. On August 25, 2014, the Illinois Department of Financial and Professional Regulation (Department) issued an Order reprimanding respondent's Illinois Physician and Surgeon License (No. 036-072716) and revoking his Controlled Substance License (No. 336-036392).<sup>1</sup> The Order also required respondent to pay a fine in the amount of \$10,000.

4. The Order was based upon the following facts and conclusions of law found by Administrative Law Judge Mary Catherine Marubio and adopted by the Department's Medical Disciplinary Board: Respondent was the holder of a Drug Enforcement Administration (DEA) Certificate of Registration.<sup>2</sup> As a holder of a DEA Certificate of Registration, respondent is required to make his patient records available to DEA inspectors. On July 10, 2012, inspectors from the DEA inspected respondent's office. The DEA inspectors asked respondent to tender patient records, but he failed to do so. Instead, respondent voluntarily surrendered his DEA Certificate of Registration to the inspectors. Respondent failed to report to the Department that he had surrendered his DEA Certificate of Registration. Respondent's conduct was found to have violated sections of the Illinois Medical Practice Act pertaining to the regulation of controlled substances and for failing to report the surrender of his DEA Certificate of Registration to the Department.

The facts and circumstances found to surround respondent's violations are as follows: Respondent sees patients in his home, and his practice is limited to treating family and friends. Respondent acknowledged that his patient records were incomplete. When the DEA inspectors visited his home office and requested to inspect respondent's patient records, respondent became fearful that he would be fined \$25,000 for each error or omission in his patient records. He also had concerns about maintaining the privacy of his patients. For these reasons, he voluntarily surrendered his DEA Certificate of Registration. In mitigation, it was found that respondent has practiced medicine for 28 years; he is board certified in internal medicine; he is licensed to practice medicine in California and Texas; and he has no prior disciplinary history with the Department. Respondent completed a "mini residency" on appropriate prescribing to address any deficiencies in this area. He understood from a DEA inspector that if he took such a course that his DEA Certificate of Registration could be reinstated. Respondent's testimony at hearing was found to be "thoughtful and forthright."

*Respondent's evidence at hearing*

5. Respondent strongly believes that he was wrongly found to have committed misconduct. He believes that he was victimized by the DEA inspectors. He contends that

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<sup>1</sup> The record did not establish the date on which respondent's licenses were issued.

<sup>2</sup> The record contained two numbers for respondent's DEA Certificate of Registration: AS2352653 and BS4573350.

they told him that he was required to have a log of every dose of medication taken by wife (who was one of his patients) and that he would be fined \$25,000 for every dose not listed on the log. Respondent also asserts that he was told that it was illegal for him to treat a patient in his home without a separate office, and that he was led to believe that he could be arrested "on the spot" for this alleged violation. Respondent contends that he was coerced by a DEA inspector to voluntarily surrender his DEA Certificate of Registration. He also asserts that a DEA agent forged his signature on a form giving the DEA agents permission to search his home office. Respondent completed a course in prescribing, which he understood from a DEA agent would enable him to obtain a new Certificate of Registration, but such was not the case.

6. Respondent works in utilization review in the area of workers' compensation. He has suffered many negative consequences from the disciplinary Order issued by the Department. He lost business; and he has spent large sums of money and time trying to restore his reputation. In respondent's words, he feels that he was "raped" by the DEA. He also asserts that the Department found that he had committed misconduct because "they needed the money from my fine." Respondent has plans to sue these entities as well as the Medical Board of California, should it fail to dismiss these proceedings.

### LEGAL CONCLUSIONS

1. The standard of proof applied in making the factual findings set forth above is clear and convincing evidence to a reasonable certainty.

2. Business and Professions Code<sup>3</sup> section 141, subdivision (a), applies generally to licenses issued by agencies that are part of the Department of Consumer Affairs, such as the Board. It provides, in relevant part, as follows:

For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action by another state . . . for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board.

The disciplinary action of the Texas Board was based on acts substantially related to the practice of medicine. Cause exists under section 141 to take disciplinary action against respondent's certificate, by reason of the matters set forth in Finding 4.

3. Section 2305, which applies specifically to licenses issued by the Board, provides in relevant part as follows:

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<sup>3</sup> All references are to the Business and Professions Code unless otherwise indicated.

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state . . . that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

The conduct for which respondent was disciplined in Illinois, as set forth in Finding 4, constitutes cause for disciplinary action in California under section 2234 (general unprofessional conduct). Accordingly, cause exists under section 2305 to take disciplinary action against respondent's certificate.

#### *Disciplinary considerations*

4. Cause for discipline having been established, the issue is the appropriate level of discipline to impose. The Board's disciplinary guidelines recommend, at a minimum, a stayed revocation and five years' probation, subject to appropriate terms and conditions, for respondent's misconduct. Respondent believes that the Order was unjustly issued by the Department, and for this reason, he argues that no discipline should be imposed in this matter. While respondent sincerely believes that he has been victimized by the DEA inspectors, the fact remains that respondent refused to turn over his patient records as requested by a DEA inspector; he failed to report the surrender of his DEA license to the Department; and he acknowledged that certain of his patient records were incomplete. For these reasons, a probationary period is necessary to protect the public.

#### ORDER

Physician's and Surgeon's Certificate No. G65315 issued to respondent Christian Paul Struven III, M.D., is revoked. However, revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

1. Controlled Substances – Maintain Records and Access to Records and Inventories

If respondent obtains his Controlled Substance License, he shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely. It shall be the sole

responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

3. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. Medical Record Keeping Course

Within 60 calendar days of the effective date of this Decision, respondent shall



enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program that meets the requirements of title 16, California Code of Regulations, section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. Notification

Within seven days of the effective date of this Decision, respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change in hospitals, other facilities or insurance carrier.

7. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants.

8. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

#### Address Changes

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

#### Place of Practice

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

#### License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

#### Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

#### 11. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

#### 12. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered

non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

13. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

14. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any

other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATED: December 7, 2015

DocuSigned by:  
*Diane Schneider*

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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings